

UNITED STATES OF AMERICA,

v.

and

Defendants.

Civil Action No.

Judge

Plaintiff, the United States of America, by the authority of the Attorney General of the United States and through the undersigned attorneys, acting at the request of the Administrator of the United States Environmental Protection Agency (“EPA”), files this complaint and alleges as follows:

1. This is a civil action under Sections 301, 309, and 311 of the Clean Water Act (“CWA” or “the Act”), 33 U.S.C. §§ 1311, 1319, 1321, as amended by the Oil Pollution Act of 1990, 33 U.S.C. § 2701 et seq., for assessment of civil penalties and injunctive relief for five unauthorized discharges of crude oil into navigable waters of the United States or adjoining shorelines from Defendants’ Weeks Island field in Iberia Parish, Louisiana. The oil was

discharged from two pipelines and an oil well owned by Louisiana Onshore Properties LLC and operated by The Meridian Resource & Exploration LLC ("Meridian"). The unauthorized discharges occurred between approximately November 2005 and November 1, 2006.

JURISDICTION, AUTHORITY, AND VENUE

2. This Court has jurisdiction over this matter pursuant to Sections 309(b) and 311(b)(7)(E) and (n) of the CWA, 33 U.S.C. §§ 1319(b), 1321(b)(7)(E) and (n), and 28 U.S.C. §§ 1331, 1345, 1355.

3. Authority to bring this action is vested in the United States Department of Justice by Section 506 of the CWA, 33 U.S.C. § 1366, and 28 U.S.C. §§ 516 and 519.

4. Venue is proper in the Western District of Louisiana under Section 311(b)(7)(E) of the CWA, 33 U.S.C. § 1321(b)(7)(E), and 28 U.S.C. §§ 1391, 1395 because the claim arose in the district and Defendants are located in, reside or are doing business in, and are found in this District.

DEFENDANTS

5. Defendant Louisiana Onshore Properties LLC is a Delaware limited liability company conducting business in Louisiana. It is wholly owned by The Meridian Resource Corporation and its office headquarters are located at 1401 Enclave Parkway, Suite 300, Houston, TX 77077.

6. At all times relevant to this action, Louisiana Onshore Properties LLC owned the crude oil pipelines and well from which oil was discharged in violation of the CWA.

7. Defendant The Meridian Resource & Exploration LLC is a Delaware limited liability company conducting business in Louisiana. It is wholly owned by The Meridian

Resource Corporation and its office headquarters are located at 1401 Enclave Parkway, Suite 300, Houston, Texas 77077.

8. At all times relevant to this action, Meridian operated the crude oil pipelines and well from which oil was discharged in violation of the CWA.

STATUTORY FRAMEWORK FOR CWA CLAIMS

Civil Penalties

9. Section 311(b)(3) of the CWA prohibits the “discharge of oil or hazardous substances into or upon the navigable waters of the United States [and] adjoining shorelines . . . in such quantities as may be harmful . . . to the public health or welfare or the environment of the United States” 33 U.S.C. § 1321(b)(3),(4). This prohibition supports the national objective “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” 33 U.S.C. § 1251(a).

10. Section 311(b)(7)(A) of the CWA mandates that “[a]ny person who is the owner, operator, or person in charge of any . . . onshore facility . . . from which oil . . . is discharged in violation of paragraph (3), shall be subject to a civil penalty” 33 U.S.C. § 1321(b)(7)(A).

11. Section 311(a)(7) of the CWA defines “person” to include individuals, firms, and corporations. 33 U.S.C. § 1321(a)(7).

12. Section 311(a)(6) of the CWA defines “owner or operator” to include owners and operators of an “onshore facility.” 33 U.S.C. § 1321(a)(6).

13. Section 311(a)(10) of the CWA expansively defines “onshore facility” to include “any facility . . . of any kind located in, on, or under, any land within the United States” 33 U.S.C. §1321(a)(10). This definition encompasses oil pipelines and wells.

14. Section 311(a)(2) of the CWA defines “discharge” to include “any spilling, leaking, pumping, pouring, emitting, emptying or dumping,” subject to certain specified exceptions not applicable here. 33 U.S.C. §1321(a)(2).

15. Section 311(a)(1) of the CWA defines “oil” as “oil of any kind or in any form,” including petroleum. 33 U.S.C. §1321(a)(1).

16. Section 502(7) of the CWA defines “navigable waters” as “waters of the United States, including the territorial seas.” 33 U.S.C. §1362(7).

17. Pursuant to its authority under the CWA, EPA has promulgated regulations that define “harmful” quantities of oil to include quantities that “[c]ause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.” 40 C.F.R. § 110.3.

18. Section 311(b)(7)(A) of the CWA establishes the civil penalty for violations of Section 311(b)(3) as \$32,500 per day of violation or an amount up to \$1,100 per barrel discharged. 33 U.S.C. §1321(b)(7)(A). See also 40 C.F.R. § 19.4 (2006) (establishing, effective March 15, 2004, the civil penalty amounts under Section 311(b)(7) were increased to the listed amounts by the Civil Monetary Penalty Inflation Adjustment Rule).

19. The per barrel penalty is increased to an amount up to \$4,300 per barrel where the violation is the result of gross negligence or willful misconduct. 33 U.S.C. §1321(b)(7)(D); 40 C.F.R. § 19.4.

Injunctive Relief

20. Section 301(a) of the CWA prohibits “the discharge of any pollutant by any person,” except in compliance with enumerated sections not applicable here. 33 U.S.C.

§ 1311(a).

21. Section 502(5) of the CWA defines the term “person” to include individuals and corporations. 33 U.S.C. § 1362(5).

22. Section 502(12) of the CWA defines the term “discharge of a pollutant” as “any addition of any pollutant to navigable waters from any point source” 33 U.S.C. § 1362(12).

23. Section 502(6) of the CWA defines “pollutant” as “dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water” 33 U.S.C. § 1362(6). This definition encompasses oil.

24. Section 502(14) of the CWA defines “point source” as “any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.” 33 U.S.C. § 1362(14).

25. Section 309(b) of the CWA is the enforcement provision for Section 301 and authorizes civil actions for “appropriate relief, including a permanent or temporary injunction” 33 U.S.C. § 1319(b).

GENERAL ALLEGATIONS: FIVE OIL SPILLS

26. At least five unauthorized discharges of crude oil into or upon navigable waters of the United States occurred on two pipelines and one oil well at Meridian’s Weeks Island facility between approximately November 2005 and November 1, 2006.

27. One discharge impacted the Gulf of Mexico Intracoastal Waterway and four

discharges impacted Weeks Bayou and/or adjoining shorelines and/or the wetlands adjacent to Weeks Bayou.

28. Weeks Bayou is a navigable-in-fact water of the United States that is regularly used in interstate commerce. The Meridian facility has docks on Weeks Bayou. From the location of the first and fourth spills, Weeks Bayou flows approximately 1/4-mile northwest until it reaches the Intracoastal Waterway. Weeks Bay, which connects to the Gulf of Mexico, is several hundred feet west of this intersection. Weeks Bay and the Intracoastal Waterway are navigable-in-fact waters and are regularly used in interstate commerce.

Spill No. 1 from Defendants' 6" Pipeline (NRC # 778963)

29. The first and largest crude oil discharge in this action was discovered by Meridian on November 9, 2005 (Spill No. 1, NRC # 778963). This discharge originated from a leak in Defendants' six-inch diameter crude oil pipeline known as the "6-inch crude line from Stone Facility to Exxon Storage Tanks" at Meridian's Weeks Island facility. The pipeline runs approximately 1 ½ miles from the so-called "Stone Facility" on the outer barrier of the Intracoastal Waterway, east under the Intracoastal Waterway, and then north and northeast on or just under the ground surface along and near Weeks Bayou until it reaches the "Exxon Storage Tanks" at the Meridian facility. The Meridian facility is located on and approximately 1 ½ miles up Weeks Bayou.

30. At least 736 barrels of crude oil were spilled into Weeks Bayou, adjoining shoreline, and adjacent wetlands.

31. The discharge resulted in the presence of a sheen of oil on water and caused heavy oil staining of soils in the adjacent wetlands and adjoining shoreline of Weeks Bayou.

Spill No. 2 from Defendants' Oil Well: March 6, 2006 (NRC # 790005)

32. The second crude oil discharge in this action was discovered at one of Defendants' oil wells on March 6, 2006 (Spill No. 2; NRC # 790005). The spill location is adjacent to an inlet to Weeks Bayou at the main Meridian compound.

33. At least 3 barrels of oil were discharged.

34. The discharge resulted in the presence of a sheen of oil on water and oil staining on the adjoining shoreline and/or adjacent wetlands.

Spill No. 3 from Defendants' 3" Pipeline: March 17, 2006 (NRC # 791170)

35. The third crude oil discharge in this action emanated from Defendants' three-inch diameter pipeline for the "Myles 32 Well" (Spill No. 3; NRC # 791170). The discharge was discovered on March 17, 2006 and originated from a leak in the pipeline at a location adjacent to an inlet to Weeks Bayou west of the main Meridian compound.

36. At least 3 barrels of oil were discharged into the water, adjoining shoreline, and/or adjacent wetlands.

37. The discharge resulted in the presence of a sheen of oil on water and/or oil staining on the adjoining shoreline and/or adjacent wetlands.

Spill No. 4 from Defendants' 6" Pipeline: October 17, 2006 (NRC # 815140)

38. The fourth crude oil discharge in this action was discovered on October 17, 2006 (Spill No. 4; NRC # 815140). This leak emanated from another failure of Defendants' same 6" pipeline that was the source of Spill No. 1 in November 2005 and occurred within a few hundred feet west of that first spill.

39. At least 4 barrels of oil were discharged into the water, adjoining shoreline,

and/or adjacent wetlands.

40. The discharge resulted in the presence of a sheen of oil on water and oil staining on the adjoining shoreline and/or adjacent wetlands.

Spill No. 5 from Defendants' 6" Pipeline: November 1, 2006 (NRC # 816744)

41. The fifth crude oil discharge in this action was discovered on November 1, 2006 (Spill No. 5; NRC # 816744). This leak emanated from another failure of Defendants' same 6" pipeline that was the source of Spill No. 1 and Spill No. 4. This leak occurred in and along the eastern shoreline of the Intracoastal Waterway after the pipeline emerges from under the Intracoastal Waterway.

42. At least 1 barrel of oil was discharged into the water and adjoining shoreline.

43. The discharge resulted in the presence of a sheen of oil on water.

44. During the repair work, another leak was detected a short distance down this pipeline.

CAUSES OF ACTION

Count 1

Civil Penalties for Five Violations of Section 311 of the Clean Water Act

45. Plaintiff incorporates by reference all allegations stated in paragraphs 1-44.

46. Each of the five unauthorized discharges was a discharge of oil into or upon the navigable waters of the United States and adjoining shorelines in such quantities as may be harmful. At least 747 barrels of crude oil were discharged. These discharges constitute violations of Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3).

47. Three of the discharges occurred within one year along the same approximately

one mile section of Defendants' 6" pipeline.

48. Each defendant is a "person" within the meaning of Sections 311(a)(7) and 502(5) of the CWA, 33 U.S.C. §§ 1321(a)(7), 1362(5).

49. For each of the discharges, defendant Louisiana Onshore Properties LLC is an "owner" of an onshore facility from which oil was discharged within the meaning of Section 311(b)(7)(A), 33 U.S.C. § 1321(b)(7)(A).

50. For each of the discharges, defendant The Meridian Resource & Exploration LLC is an "operator" of an onshore facility from which oil was discharged within the meaning of Section 311(b)(7)(A), 33 U.S.C. § 1321(b)(7)(A).

51. The 6" and 3" pipelines and the oil well where the discharges occurred are "onshore facilities" within the meaning of Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10).

52. Each of the pipeline and wellhead discharges, spills, or leaks constitutes "discharges" of oil within the meaning of Section 311(a)(2) of the CWA, 33 U.S.C. § 1321(a)(1).

53. Each of the discharges was of "oil" within the meaning of Section 311(a)(1) of the CWA, 33 U.S.C. § 1321(a)(1).

54. Each of the discharges were into or upon "navigable waters" of the United States and/or adjoining shorelines within the meaning of Sections 311 and 502(7) of the CWA, 33 U.S.C. §§ 1321, 1362(7).

55. Each of the discharges of oil was in a quantity "as may be harmful" within the meaning of Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3), because the discharges were sufficient to and did cause a film or sheen upon or discoloration of the receiving waters or

adjoining shorelines or did cause deposition of a sludge or emulsion within the meaning of 40 C.F.R. § 110.3.

56. As a result of Defendants' violations of Section 311(b)(3) of the CWA, Defendants are liable under Section 311(b)(7)(A) for a civil penalty of up to \$32,500 per day of violation or an amount up to \$1,100 per barrel discharged, or, if it is established that the violations are the result of gross negligence or willful misconduct, a penalty of up to \$4,300 per barrel under Section 311(b)(7)(D).

Count 2

Injunctive Relief for Violations of Section 301 of the Clean Water Act

57. Plaintiff incorporates by reference all allegations stated in paragraphs 1-56.

58. Each of Defendants' five unauthorized discharges of oil was a discharge of a pollutant to navigable waters from a point source. These discharges constitute violations of Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

59. Each Defendant is a "person" within the meaning of Sections 311(a)(7) and 502(5) of the CWA, 33 U.S.C. §§ 1321(a)(7), 1362(5).

60. Each of Defendants' five discharges of oil constitute the unauthorized "discharge of any pollutant by any person" within the meaning of Sections 301(a) and 502(12) of the CWA, 33 U.S.C. §§ 1311(a), 1362(12).

61. For each discharge, Defendants' discharged oil is a "pollutant" within the meaning of Section 502(6) of the CWA, 33 U.S.C. § 1362(6).

62. Defendants' two pipelines and oil well that were the sources of the discharges are "point sources" within the meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

63. As a result of Defendants' violations of Section 301(a) of the CWA, Defendants are liable under Section 309(b), 33 U.S.C. § 1319(b), for permanent and temporary injunctive relief.

REQUEST FOR RELIEF

WHEREFORE, plaintiff, the United States of America, respectfully requests that this Court:

A. Award the United States civil penalties against the Defendants in an amount up to \$1,100 per barrel of oil discharged for the discharges alleged above, or if it is established that the discharges were the result of gross negligence or wilful misconduct, in an amount up to \$4,300 per barrel discharged;

B. Issue a permanent injunction to require Defendants to take all appropriate action to inspect, monitor, maintain, and repair its facilities that were the sources of the discharges in order to prevent and respond more quickly to future unauthorized discharges;

C. Grant the United States such other relief as the Court deems just and proper.

Respectfully submitted,

FOR THE UNITED STATES OF AMERICA:

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